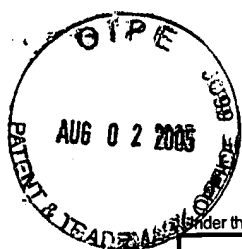


8-4-05

16484  
Jhr

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>		Application Number	09/802,686
		Filing Date	March 9, 2001
		First Named Inventor	Gary VAN NEST
		Art Unit	1648
		Examiner Name	T. Brown
Total Number of Pages in This Submission	25	Attorney Docket Number	377882000900

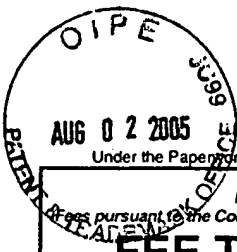
ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <ol style="list-style-type: none"> <li>1. Communication (2 pages)</li> <li>2. Copy of Date Stamped Express Mail Label and Receipt (1 page)</li> <li>3. Copy of Amendment as filed April 28, 2005 (21 pages)</li> <li>4. Return Receipt Postcard</li> </ol>
<div style="border: 1px solid black; padding: 5px;">Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP (Customer No. 25226)		
Signature			
Printed name	Debra J. Glafster		
Date	August 2, 2005	Reg. No.	33,888

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 544 979 514 US, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 2, 2005

Signature: (Georgina Matos)



Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

<b>FEE TRANSMITTAL</b> For FY 2005		<b>Complete if Known</b>	
Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).		Application Number	09/802,686
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	March 9, 2001
TOTAL AMOUNT OF PAYMENT (\$)		First Named Inventor	Gary VAN NEST
225.00		Examiner Name	T. Brown
		Art Unit	1648
		Attorney Docket No.	377882000900

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0.00
Design	200	100	100	50	130	65	0.00
Plant	200	100	300	150	160	80	0.00
Reissue	300	150	500	250	600	300	0.00
Provisional	200	100	0	0	0	0	0.00

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____	_____	_____ x _____	0.00

Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)
_____	0.00

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____	_____	_____ x _____	0.00

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	_____ / 50	_____ (round up to a whole number) x _____	_____	0.00

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)	0.00
Other (e.g., late filing surcharge): 2252 Extension for response within second month	225.00
	<b>Fees Paid (\$)</b>

<b>SUBMITTED BY</b>			
Signature	<i>Karen R. Zachow</i>	Registration No. (Attorney/Agent)	46,332
Name (Print/Type)	Karen R. Zachow, Ph.D.	Telephone	(858) 720-5191
		Date	April 28, 2005

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 441683923 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date: April 28, 2005

Signature: *[Signature]* (Grace Yu)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 544 979 514 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: August 2, 2005

Signature:

*Georgia Matos*  
(Georgia Matos)

Docket No.: 377882000900  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Gary VAN NEST

Application No.: 09/802,686

Confirmation No.: 9981

Filed: March 9, 2001

Art Unit: 1648

For: METHODS OF PREVENTING AND  
TREATING RESPIRATORY VIRAL  
INFECTION USING  
IMMUNOMODULATORY  
POLYNUCLEOTIDE SEQUENCES

Examiner: T. Brown

**COMMUNICATION**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

This Communication is being filed pursuant to the August 2, 2005 request of the Examiner. Applicants note that the response filed April 28, 2005 to the Office Action dated November 30, 2004 was not entered on PAIRS. Applicants contacted the Examiner who requested that the response be resubmitted. Accordingly, enclosed is a complete copy of the response as originally submitted on April 28, 2005, along with a copy of the date stamped express mail certificate.

Applicants submit that no fee is required for this filing. However, in the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 37788200900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

Dated: August 2, 2005

Respectfully submitted,

By 

Debra J. Glajster

Registration No.: 33,888  
MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
(650) 813-5725

# COPY

Customer Copy  
Label 11-F June 2002



EV 441683923 US



UNITED STATES POSTAL SERVICE®

Post Office To Addressee

### ORIGIN (POSTAL USE ONLY)

PO ZIP Code 92116	Day of Delivery <input type="checkbox"/> Next <input checked="" type="checkbox"/> Second <input type="checkbox"/>	Flat Rate Envelope
Date In Mo. 4 Day 28 Year 2005	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 13.65
Time In 1917	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. 5 ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$ 13.65

### DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.		
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		
Customer Signature		

### CUSTOMER USE ONLY

METHOD OF PAYMENT:

Express Mail Corporate Acct. No.

Federal Agency Acct. No. or  
Postal Service Acct. No.

FROM: (PLEASE PRINT)

PHONE (609) 720-5100

MORRISON & FUEKSTER LLP  
3611 VALLEY CENTRE DR STE 500  
SAN DIEGO CA 92130-3318

37788-20009.00

KRZ1

TO: (PLEASE PRINT)

PHONE ( )

MAIL STOP AMENDMENT  
COMMISSIONER FOR PATENTS  
PO BOX 1450  
ALEXANDRIA VA 22313-1450

PRESS HARD.

You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 [www.usps.com](http://www.usps.com)



MIDWAY WINDOWS  
SAN DIEGO, California  
921109998

04/28/2005 0567760110-0084 (800)275-8777 07:18:12 PM

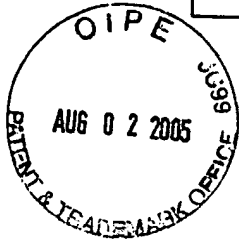
Sales Receipt			
Product Description	Sale Qty	Unit Price	Final Price
ALEXANDRIA VA 22313			\$13.65
Express Mail PO-ADD			
Serial Number	EV441683923US		
2nd Day Noon / Normal Delivery			
Paid by account:			\$13.65
EMCA account number:	921062		

Total: \$0.00

Paid by:

Bill#: 1001601932426  
Clerk: 18

— All sales final on stamps and postage. —  
Refunds for guaranteed services only.  
Thank you for your business.  
Customer Copy

**COPY**

Atty Docket No.: 377882000900

Inventor: Gary VAN NEST

Application No.: 09/802,686

Filing Date: March 9, 2001

Title: METHODS OF PREVENTING AND TREATING RESPIRATORY VIRAL  
INFECTION USING IMMUNOMODULATORY POLYNUCLEOTIDE  
SEQUENCES

**Documents Filed:**

Transmittal (1 page)

Fee Transmittal (1 page + duplicate)

Amendment in Response to Non-final Office Action (16 pages)

Two Month Request for Extension of Time Under 37 CFR 1.136(a) (1 page)

Via: Express Mail: Airbill No. EV 441683923 US

Sender's Initials: KZ/gly1

Date: April 28, 2005



EV 441683923 US

EV441683923US

**Mailing Label**  
 Label 11-F June 2002


UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)				DELIVERY (POSTAL USE ONLY)			
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>		Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Date In Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$		Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee		Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee	<input type="checkbox"/> <b>WAIVER OF SIGNATURE</b> (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.			
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$		NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Customer Signature		
<b>CUSTOMER USE ONLY</b> METHOD OF PAYMENT: Express Mail Corporate Acct. No. <b>X921062</b>				Federal Agency Acct. No. or Postal Service Acct. No.			
FROM: (PLEASE PRINT) MORRISON & FOERSTER LLP 3811 VALLEY CENTRE DR STE 500 SAN DIEGO CA 92130-3318 PHONE (858) 720 5100				TO: (PLEASE PRINT) MAIL STOP <b>AMENDMENT</b> COMMISSIONER FOR PATENTS PO BOX 1450 ALEXANDRIA VA 22313-1450			
37788-20009.00 KZ21							

 PRESS HARD.  
 You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



181/ 300

F:02 T:12